

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

PHILLIP EVANS,

Plaintiff,

v.

BUTLER COUNTY JAIL,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. 1:22-CV-137 SEP

MEMORANDUM AND ORDER

Before the Court is Plaintiff Phillip Evans's Complaint. Doc. [1]. Plaintiff, an inmate at Eastern Reception Diagnostic Center (ERDCC), brings this action under 42 U.S.C. § 1983 challenging the conditions of his confinement. The Complaint is not on a Court-provided form. Plaintiff also failed to pay the \$402 filing fee or file a motion to proceed *in forma pauperis* along with a certified prison account statement. The Court orders Plaintiff to file an amended complaint on a Court-provided form and either pay the filing fee or file a motion to proceed *in forma pauperis* with the requisite account statement. Plaintiff must comply with the instructions provided below within twenty-one (21) days, or his lawsuit will be dismissed without prejudice.

DISCUSSION

A self-represented litigant must file a complaint on a Court-provided form in compliance with this Court's Local Rules. *See* E.D.Mo. L.R. 2.06. In the "Caption" section of the Court-provided complaint form, Plaintiff should write each defendant's name. *See* Fed. R. Civ. P. 10(a) ("The title of the complaint must name all the parties"). Plaintiff should specify whether he is suing each defendant in an official capacity, individual capacity, or both. Plaintiff must avoid naming anyone as a defendant unless that person is directly related to his claim.¹

In the "Statement of Claim" section, Plaintiff should write the defendant's name. In separate, numbered paragraphs under that name, Plaintiff should set forth a short and plain statement of the facts that support his claim or claims against that defendant. *See* Fed. R. Civ. P. 8(a). Each averment must be simple, concise, and direct. *See id.* Plaintiff must state each claim

¹ The only named defendant in the complaint is the Butler County Jail. Departments or subdivisions of local government are "not juridical entities suable as such" under 42 U.S.C. § 1983. *See Ketchum v. City of West Memphis*, 974 F.2d 81, 82 (8th Cir. 1992).

in numbered paragraphs, and each paragraph should be “limited as far as practicable to a single set of circumstances.” *See* Fed. R. Civ. P. 10(b). If Plaintiff names a single defendant, he may set forth as many claims as he has against that defendant. *See* Fed. R. Civ. P. 18(a). If Plaintiff names more than one defendant, he should include only claims that arise out of the same transaction or occurrence—related claims. *See* Fed. R. Civ. P. 20(a)(2).

Plaintiff must allege facts explaining how each defendant was personally involved in or directly responsible for causing harm. *See Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990). Plaintiff must explain each defendant’s role so that each defendant has notice of what he or she is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a claim.”). The “Statement of Claim” section requires more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *See Neubauer v. FedEx Corp.*, 849 F.3d 400, 404 (8th Cir. 2017).

Plaintiff must file his amended complaint in the Court-provided form no later than twenty-one (21) days from the date of this Memorandum and Order. Also within the same twenty-one (21) days, Plaintiff must either pay the \$402 filing fee or file a motion to proceed *in forma pauperis*. Failure to fulfill either requirement will result in dismissal of this action without prejudice and without further notice.

Accordingly,

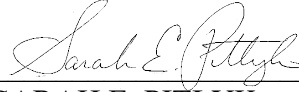
IT IS HEREBY ORDERED that the Clerk of Court shall provide Plaintiff a blank Prisoner Civil Rights Complaint form and Motion to Proceed in Forma Pauperis – Prisoner Cases form.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Plaintiff shall file a Complaint on the Court-provided form in compliance with the Court’s instructions. Plaintiff should ensure that his writing is legible on his amended complaint.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Plaintiff shall either pay the full filing fee of \$402 or submit a motion to proceed *in forma pauperis* on the Court-provided form. If Plaintiff files a motion to proceed *in forma pauperis*, he shall also submit a certified copy of his inmate account statement for the six-month period immediately preceding the filing of the amended complaint.

IT IS FURTHER ORDERED that Plaintiff's failure to timely comply with this Order shall result in the dismissal of this action without prejudice and without further notice.

Dated this 20th day of October, 2022.

A handwritten signature in cursive script, reading "Sarah E. Pitlyk", written in black ink.

SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE